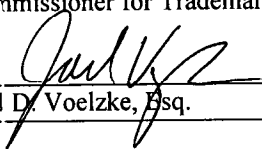


TIP

I, Joel D. Voelzke, hereby certify that on **December 22, 2004**, this correspondence is being deposited with the United States Postal Service as Express Mail No. **EU 269416198 US** in an envelope addressed to: Commissioner for Trademarks, PO Box 1451, Alexandria, VA 22313-1451.

ORIGINAL


Joel D. Voelzke, Esq.

In the Matter of trademark of Registration No. 2,734,105 (INKQUIK)

For the mark INKQUIK

76376477

Date registered: July 8, 2003

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>PARAGON SOLUTION NETWORK, INC.,</p> <p>Petitioner,</p> <p>v.</p> <p>INKQUIK, INC.,</p> <p>Registrant.</p>	<p>Cancellation No.: _____</p>
--	--------------------------------

01/04/2005 KGIBBONS 00000045 2734105

01 FC:6401

300.00 DP

PETITION FOR CANCELLATION

To the best of Petitioner's knowledge, the name and address of the current owner of the registration are: Inkquik, Inc., 10170 SW Nimbus Avenue, Suite H-3, Tigard, Oregon 97223.

Paragon Solution Network, Inc., a California corporation having a place of business at 21632 Lassen Street, Chatsworth, California 91311, believes that it will be damaged by Registration No. 2,734,105 and hereby petitions to cancel same.

As grounds for this petition, it is alleged upon information and belief that:



12-27-2004

1. The Registrant obtained United States Trademark Registration No. 2,734,105 for the mark INKQUIK for "Online retail store services featuring printer and copier toner, ink jet printer ink, ink cartridge refill supplies, ink jet cartridges, toner drums and cartridges and remanufactured ink jet cartridges and toner drums for printers, copiers, fax machines, and multi-function office machines" in International Class 35, issued on July 8, 2003. Registrant claims a date of first use of January 31, 2001. A copy of the Registration is attached hereto as Exhibit 1.

2. The field of on-line sales of printer ink and related goods is an extremely crowded field, with dozens if not hundreds of websites devoted to on-line sales of such products.

3. In approximately May 2001 Petitioner registered the domain name www.quickinks.com, and thereafter began using that domain name to conduct on-line sales of printer inks and related goods. Petitioner has expended considerable sums over the past more than three years on advertising and promotion.

4. Petitioner believes that, during the more than three years during which Petitioner has been using its domain name, there have never been any instances of actual confusion with Registrant's mark.

5. The Registrant filed a complaint against Petitioner on approximately September 1, 2004 in the U.S. District Court for the district of Oregon, claiming that Petitioner's domain name www.quickinks.com and the name QUICKINKS.COM for its service was confusingly similar to Registrant's INKQUIK mark. (Exhibit 4)

I. THE MARK IS MERELY DESCRIPTIVE

6. The Registrant, at its on-line store located at www.inkquik.com, heavily promotes its ink-selling service as being "quik" and "quick." See, e.g., Exhibit 3, which is the "testimonials" page of Registrant's on-line store. Specifically, Registrant uses each of the

following phrases to describe and promote its ink-selling service: “in no time,” “prompt service,” “You can’t beat your quickness,” “very fast,” “promptly,” “That’s the fastest (quik-est – lol!)¹ service I have gotten from anyone,” “quick!” “a day early,” “super fast,” “quick service,” “so much earlier,” “in three days,” ““Quik’ service” [spelled so as in original], “quik delivery” [spelled so as in original], “fast and efficient service,” “so quickly,” “fast shipping . . . Wow!,” “got them today,” “speedy arrival,” prompt delivery,” “very fast shipping,” “Fast replacement,” “fast service,” “the next day!”, “prompt delivery,” “unbelievable speed in delivery,” “just two days,” “quick mail delivery,” “Wow, what fast service!”, “timely,” “quick service and quality of carriage. I guess that’s why you all call yourself InkQuik,” “really fast,” “shipped fast,” “quick handling,” “speedy service,” “Super fast,” “just a few days,” “speedy work,” “speed of delivery and price!,” “quick reply,” “fastest service I have ever seen.” (Exhibit 3)

7. The mark INKQUIK is merely descriptive of the services of selling ink and related goods, and offering quick service. *See, e.g., In re Quik-Print Copy Shops*, 616 F.2d 523 (CCPA 1980) (affirming Board’s refusal to register the mark QUIK-PRINT, in view of applicant’s advertising which emphasized the speed of the offered services: “Such speed is emphasized in appellant’s advertising brochure . . . Because this quality or characteristic of appellant’s service comes immediately to mind, we are satisfied that the mark QUIK-PRINT is merely descriptive.”)

¹ “lol” is computer shorthand for “laughing out loud.”

II. THE REGISTRATION WAS PROCURED BY FRAUD BECAUSE REGISTRANT FAILED TO DISCLOSE TO THE TRADEMARK OFFICE THAT IT WAS USING THE MARK IN A DESCRIPTIVE MANNER

8. At the time that Registrant applied for registration, and at all relevant times during the pendency of the application, Registrant failed to disclose to the Patent and Trademark Office that Registrant was using the mark INKQUIK in a descriptive manner to promote its ink-selling service and the claimed quickness of that service. By failing to disclose this information, Registrant procured the registration by fraud on the Patent and Trademark Office.

III. THE REGISTRATION WAS PROCURED BY FRAUD BECAUSE THE REGISTRANT IS NOW CONTRADICTING IN LITIGATION THE ARGUMENTS IT PRESENTED TO THE TRADEMARK OFFICE TO INDUCE THE OFFICE TO ISSUE THE REGISTRATION

9. Initially, the Patent and Trademark Office rejected the application to register the mark INKQUIK as confusingly similar to the registered mark QUICK INK for ink-related goods, namely, ink formulation software. Registrant responded by arguing inter alia that the marks INKQUIK AND QUICK INK were not confusingly similar, including the following arguments:

“Applicant’s Mark [INKQUIK] and Registrant’s mark [QUICK INK] are different from each other in appearance. The sole, coined word INKQUIK of Applicant’s mark imparts a strong and separate visual impression, distinct from the separate words QUICK and INK of Registrant’s mark. . . . “[C]ompared in their entireties and their dominant features, Applicant’s Mark and Registrant’s mark are quite dissimilar in appearance. [¶] Giving proper effect to the dominant features of the respective marks, it is quite unlikely that Applicant’s coined INKQUIK mark would be visually confused with Registrant’s QUIK INK mark.”

(Exhibit 2).

10. In contrast, the Registrant currently contends that:

The marks [INKQUIK and www.quickinks.com] are practically identical, because Quickinks’ mark is merely the phonetic equivalent of Inkquik’s mark with the syllables reversed. The cases are numerous finding that a transposition of elements does not create a different commercial impression and therefore confusion is likely to result.

(Exhibit 5, second page, first paragraph)

11. The Complaint (Exhibit 4) filed by Registrant asserts a theory against Petitioner's business (that INKQUIK and QUICK INK are confusingly similar) which contradicts Registrant's prior arguments (that INKQUIK and QUICK INK are not confusingly similar) made before the PTO in its successful effort to induce the PTO to register the mark.

12. Additionally, in its attempt to procure registration, Registrant argued that the registered mark QUICK INK was entitled to only a narrow range of protection because, according to Registrant, there existed 247 active trademark registrations containing the word "QUICK" within the registrant's class of goods and services. Specifically, Registrant argued:

The proliferation of "QUICK" marks suggests that each such mark, including Registrant's mark, is entitled to only narrow protection, and that consumers in the market for Registrant's goods are unlikely to be confused by the use of the common name "QUICK." TMEP 1207.01(c)(iv). The use of "QUICK" by many other sellers in [Registrant's] market suggests that "QUICK" is a common weak element in this context and . . . it is unlikely that Applicant's INKQUIK mark would be confused with Registrant's [QUICK INK] mark.

(Exhibit 5)

13. There are currently approximately 252 live registrations and applications in Registrant's class of goods and services containing the word QUICK, or variants thereof such as KWIK or QUIK. Nevertheless, Registrant is now arguing that it is entitled to a broad injunction against Petitioner's www.quickinks.com domain name, contradicting its prior position when seeking registration.

14. Registrant is currently attempting to exclude from the marketplace marks and domain names which Registrant had essentially already argued were "quite dissimilar," and for which Registrant argued that the appropriate scope of protection was narrow.

15. By virtue of the foregoing, Registrant induced the Patent and Trademark Office to issue the registration by arguing a position which it now scoffs at and which it now effectively

admits was meritless, thereby procuring its registration by fraud on the Patent and Trademark Office.

IV. THE MARK IS INCAPABLE OF DISTINGUISHING REGISTRANT'S GOODS AND SERVICES BECAUSE REGISTRANT HAS FAILED TO POLICE ITS MARK

16. A company unrelated to Registrant is using the domain name www.quickink.com, which is virtually identical to Petitioner's domain name, to sell printer ink and related goods over the Internet. (See Exhibit 6) Petitioner has taken no effective action against the operator of this allegedly infringing website.

17. A company unrelated to Registrant is using the domain name www.inkquik.com.au and the mark INKQUIK, which is identical to Petitioner's registered INKQUIK mark, to sell printer ink and related goods over the Internet. (See Exhibit 7) That on-line seller uses the tag phrase, "Printer Inks – PRONTO!" in conjunction with the INKQUIK mark to accurately describe its ink selling service and its claimed quickness of service. (Id.) Petitioner has taken no effective action against the operator of this website.

18. Registrant's mark is incapable of serving as a source identifier due to, inter alia, the concurrent use by others of marks and domain names including INKQUIK, www.inkquik.com.au, and www.quickink.com, and the long, concurrent, and peaceful use by Petitioner of the descriptive domain name www.quickinks.com.

19. Petitioner adopted a distinctive logo featuring the letters "I" and "Q" integrated together; thereafter, Registrant adopted a logo similar to Petitioner's. Registrant then claimed that the use of similar logos contributes to a likelihood of confusion and demanded that Petitioner cease its use of its own logo. Despite Petitioner's clearly superior rights to use such a

logo and Registrant's claim that the logos are confusingly similar, Registrant continues to use its after-developed logo.

20. If the Registrant is permitted to retain the registration sought to be canceled, and thereby, the prima facie exclusive right to use in commerce the INKQUIK mark in connection with ink and ink-related products, Registrant is likely to continue pursuing its lawsuit against Petitioner in an attempt to prevent Petitioner, who has expended considerable sums and efforts in promoting its mark and its logo over the years, from using its descriptive domain name www.quickinks.com to fairly and accurately describe Petitioner's service.

21. If the Registrant is permitted to retain the registration sought to be canceled, a cloud will be placed on Petitioner's ability to use its descriptive domain name www.quickinks.com to fairly and accurately describe Petitioner's service.

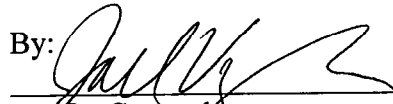
22. If the Registrant is permitted to retain the registration sought to be canceled, Registrant is likely to continue using the registration as a sword to stifle competition in a manner inconsistent with the conditions on which it obtained the registration.

WHEREFORE, Petitioner deems that it is or will be damaged by Registration No. 2,734,105 and petitions for cancellation thereof in class 35.

A duplicate Petition for Cancellation is being filed herewith, along with the filing fee of \$300 required in § 2.6(a)(16).

Respectfully submitted,
PARAGON SOLUTION NETWORK,
INC.

Dated: Dec. 22, 2004

By: 

Its Counsel
Joel D. Voelzke

INTELLECTUAL PROPERTY LAW
OFFICE OF JOEL D. VOELZKE
400 Corporate Pointe, Suite 300
Culver City, California 90230
Tel: (310) 590-4525
Facsimile: (310) 590-4526

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,734,105

Registered July 8, 2003

**SERVICE MARK
PRINCIPAL REGISTER**

INKQUIK

INKQUIK, INC. (OREGON CORPORATION)
P.O. BOX 230912
TIGARD, OR 972810912

FOR PRINTERS, COPIERS, FAX MACHINES AND
MULTI-FUNCTION OFFICE MACHINES, IN CLASS
35 (U.S. CLS. 100, 101 AND 102).

FOR: ONLINE RETAIL STORE SERVICES FEATURING
PRINTER AND COPIER TONER, INK JET
PRINTER INK, INK CARTRIDGE REFILL SUPPLIES,
INK JET CARTRIDGES, TONER DRUMS AND
CARTRIDGES AND REMANUFACTURED INK JET
CARTRIDGES AND TONER DRUMS

FIRST USE 10-31-2000; IN COMMERCE 10-31-2000.

SER. NO. 76-376,477, FILED 2-25-2002.

CURTIS FRENCH, EXAMINING ATTORNEY

2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on the date shown below:

Name: J. Alfred Murray
Signature: J. Alfred Murray
Date: January 9, 2003

In re Application of: InkQuik, Inc.
Mark: INKQUIK
Serial No. 76/376,477
Filed: February 25, 2002
Office Action Mailing Date: July 10, 2002

RECEIVED
2003 JAN 28 A 8:05
LAW OFFICE INC

Law Office 115
Attorney: Jordan T. Pulaski

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RESPONSE TO OFFICE ACTION

A. Likelihood of Confusion

In Office Action No. 1, the Examining Attorney states that he may refuse registration of INKQUIK (the "Mark"), under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), on the ground of likelihood of confusion between the Mark and the following registration:

Mark: QUICK INK (Registration Number 2,062,040);
Goods: Computer program for use in the formulation of printing inks (International Class 9);
Owner: X-Rite, Inc. ("Registrant").

ME

For the following reasons, Applicant respectfully disagrees with the Examining Attorney's position, and submits that there is no likelihood of confusion.

In assessing the likelihood of confusion, the courts have repeatedly said, "it is the duty of the examiner * * * to find, upon consideration of *all* the evidence, whether or not confusion appears likely." In re E.I. Du Pont de Nemours & Co., 476 F.2d 1357, 1362, 177 USPQ 563, 568 (CCPA 1973) (emphasis in original). In this case, the respective marks differ in appearance, the marks are used with substantially different goods and services, marketed to different purchasers, and Registrant's mark receives only narrow protection given the number of similar marks. Therefore, Applicant's use of the INKQUIK mark in connection with the goods and services identified in the application is unlikely to cause any consumer confusion.

1. The Marks are Different in Appearance.

There is no significant similarity of appearance between Applicant's and Registrant's marks that might cause consumer confusion. In general, marks must be compared in their entireties. See, e.g., Massey Junior College, Inc. v. Fashion Institute of Technology, 492 F.2d 1399 (CCPA 1974); TMEP Section 1207.01(b)(iv). In addition, in cases where one feature of a mark is more significant than another feature, it is also proper to give greater force and effect to that dominant feature. See, e.g., Giant Food, Inc v. Nation's Foodservices, Inc., 710 F.2d 1565 (Fed Cir. 1983).

Applicant's Mark and Registrant's mark are different from each other in appearance. The sole, coined word INKQUIK of Applicant's mark imparts a strong and separate visual impression, distinct from the separate words QUICK and INK of Registrant's mark. The first syllable or word of a mark is generally the more dominant element of the mark. Presto Products, Inc. v. Nice-Pak Products, Inc., 9 USPQ2d 1895 (TTAB 1988). While both marks contain the derivatives of the common words "quick" and "ink," in Registrant's mark QUICK is the more dominant element in the Mark.

Even when applied to similar goods or services, marks bearing identical suffixes may create sufficiently different commercial impressions so that there is no likelihood of confusion. See, e.g., Lever Bros. Co. v. Barcolene Co., 174 USPQ 392 (CCPA 1972) (ALL for household cleaner held not likely to be confused with ALL CLEAR for household cleaner); Nabisco Brands, Inc. v. Quaker Oats Co., 547 F.Supp. 692 (DNJ 1982) (CREAM OF WHEAT and CREAMY WHEAT, both for breakfast cereals; preliminary injunction denied). Thus, compared in their entireties and their dominant features, Applicant's Mark and Registrant's mark are quite dissimilar in appearance.

Giving proper effect to the dominant features of the respective marks and the different visual impressions left by the marks, it is unlikely that Applicant's coined INKQUIK mark would be visually confused with Registrant's QUICK INK mark.

2. The Respective Goods and Services are Different and Marketed to Different Purchasers.

Applicant's and Registrant's goods are different in nature, used for different purposes, and marketed to different purchasers. Where, as here, the goods or services in question are unlikely to be encountered by the same purchasers in situations that would create a mistaken assumption as to the source of the goods, then, even if the marks are identical, confusion is not likely. See, e.g., Quartz Radiation Corp. v. Comm/Scope Co., 1 USPQ2d 1668 (TTAB 1986) (QR for coaxial cable held not confusingly similar to QR for various electrical products used in the photocopying field); Local Trademarks, Inc. v. Handy Boys, Inc., 16 USPQ2d 1156 (TTAB 1990) (LITTLE PLUMBER for liquid drain opener held not confusing similar to LITTLE PLUMBER and Design for advertising services in the plumbing field).

Applicant's services are online retail sales of ink cartridges and related products. The Examining Attorney is mistaken in the assumption that "consumer[s] looking for printing inks or computer programs used to help make printing inks could encounter both the applicant's and the registrant's goods and services." Ink cartridges and related products are entirely different from Registrant's sophisticated and expensive software for formulating printing inks.

Applicant sells retail consumer ink cartridges and related products to the average consumer. Registrant's recitation of goods and services, however, reflects that Registrant does not sell to average consumers in the retail market. Registrant sells to those who "formulat[e] printing inks;" average consumers do not "formulat[e] printing inks."

Applicant is mindful that the issue of likelihood of confusion must be determined on the basis of the goods and services as they are identified in the application and registration. Nevertheless, Applicant's interpretation of the respective identifications of goods (and the significance of the differences between the marks) is borne out by a brief examination of Applicant's and Registrant's activities in the marketplace.

Applicant's website offers "[h]igh-quality inkjet cartridges, laser toner cartridges and more at low prices."¹ Registrant's website states that Registrant's ink formulation software² "provides accurate, flexible, and fast access to color control data for the paint, plastics, printing, packaging, coatings, ink, and textile industries. With X-RiteColor Master software, you have the power to measure, analyze, control, and communicate color data through one sophisticated yet simple software program."³

Applicant's ink cartridges and related products are inexpensive retail consumer products. Registrant's sophisticated and expensive computer software is marketed not to retail consumers, but to middle-market purchasers in the "paint, plastics, printing, packaging, coatings, ink, and

¹ See Exhibit A, InkQuik website at <http://inkquik.com/index.html>, accessed January 8, 2003.

² Registrant's "QuickInk color formulation software has been replaced by the X-RiteColor® Master suite of software." See Exhibit B, X-Rite website at <http://www.xrite.com/Products/Product.asp?Show=Description&id=158>, accessed January 8, 2003.

³ See Exhibit C, X-Rite website at <http://www.xrite.com/Products/Product.asp?Show=Description&id=432>, accessed January 8, 2003.

textile industries.” Thus, Applicant’s and Registrant’s respective goods and services are marketed through different channels of commerce to entirely different groups of purchasers.

There is no likelihood that a sophisticated industrial purchaser in the “paint, plastics, printing, packaging, coatings, ink, and textile industries” seeking expensive ink formulation software would purchase Applicant’s inexpensive ink cartridges. A purchaser “is assumed to take more care in purchasing ‘expensive’ items which he buys infrequently, than in buying everyday, relatively inexpensive items.” McCarthy on Trademarks and Unfair Competition, §23:96 (1996 ed.). Similarly, there is no likelihood that an average retail consumer seeking ink cartridges would purchase Registrant’s expensive ink formulation software. Accordingly, there are no circumstances in which Applicant’s or Registrant’s potential purchasers might mistake the source of their respective goods and services.

The substantial differences between the retail consumer ink cartridges and related products provided by Applicant and the sophisticated and expensive industrial computer software provided by Registrant, as well as the differences in the markets targeted by the parties, are sufficient to ensure that consumers will not be confused.

3. Registrant’s Mark Receives Only Narrow Protection Given the Number of Similar Marks.

Among the variety of relevant factors listed by the Court of Customs and Patent Appeals in the Du Pont decision is the number and nature of similar marks in use on similar goods. *See In re E.I. Du Pont de Nemours & Co.*, 177 USPQ 563 (CCPA 1973); TMEP 1207.01. In International Class 9 alone, there are more than 247 active trademark registrations for software products containing variations of the word “QUICK.”⁴ Among these registered trademarks are active registrations for ink and printing software products, including the following registrations:

Mark: QUICKSOLVE (Registration Number 1,990,418);

Goods: Computer hardware and software for entering, scanning, storing, retrieving, displaying, manipulating, transmitting and printing images and data (International Class 9);

Owner: Eastman Kodak Company; and

Mark: QUIKWORKS (Registration Number 2,200,895);

Goods: Software for use in the capture and manipulation of image and alpha-numeric character data for use in the printing of said images and alpha-numeric characters on various media types (International Class 9);

Owner: DataCard Corporation.

⁴ Applicant respectfully requests that Exhibit D attached hereto, which contains a chart of trademark registrations containing the word “QUICK” be accepted to the record, or if necessary, that leave be granted to allow Applicant to submit additional evidence to show that many or most of these marks are currently in use.

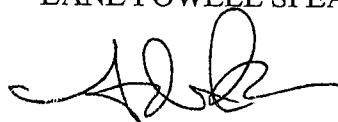
A common law search would surely reveal many more such marks in use.

The proliferation of "QUICK" marks suggests that each such mark, including Registrant's mark, is entitled to only narrow protection, and that consumers in the market for Registrant's goods are unlikely to be confused by the use of the common name "QUICK." TMEP 1207.01(c)(iv). The use of "QUICK" by many other sellers in the software market suggests that "QUICK" is a common weak element in this context and, considering the substantial differences between Applicant's and Registrant's goods and services and channels of trade, it is unlikely that Applicant's INKQUIK mark would be confused with Registrant's mark.

CONCLUSION

For the foregoing reasons, Applicant respectfully submits that the present application is fit for publication and requests that the Examining Attorney approve the application for publication.

Respectfully,
LANE POWELL SPEARS LUBERSKY LLP



Adam D. Ross
(503) 778-2136

Date: January 9, 2003



High-quality printer supplies,
excellent customer service and
a huge selection all at low prices!

- No Sales Tax for Anyone!
- 30 day money-back guarantee
- 180 day replacement guarantee
- \$3.95 flat-rate shipping
- Secure online ordering

- Home
- Payment Options
- Contact Us
- FAQ
- Shipping Info
- View Cart
- Testimony
- School Orders
- Policies

Home > Testimony



The following is a small fraction of the feedback that's been sent to us by our customers. None of these responses were solicited.

30/180
Guarantee

30-day money-back guarantee!
180-day replacement guarantee!

"I just wanted to write a little note to thank you for the amazing service that I was given by InkQuik.com. My order was here in no time and the price and quality were excellent. Not to mention the fact that I even got a few pieces of candy packed in with my order. I will return to InkQuik.com for all my printer purchases and will recommend it to everyone I know."

Thanks again,
DJ Hovermale

\$3.95 Flat-rate Shipping



Most orders received in 3 days or less

"Just wanted to let you know how wonderful you are. I saved over \$100 on my order and the cartridges work beautifully, and I go through a lot of ink with three printers in the house. Once again, you guys are phenomenal and have my future business and will recommend you to anyone I run into."

-L. Birkholz

"Thank you very much for such prompt service. From now on I will always get my supplies from you. Great job!!"

-Kay Koeppen

"If all business operated the way you do, we would not know how to appreciate the good ones such as yours. Great job!"

- Maurice Lacour

"I just wanted you to know that I am very... VERY pleased with your business. I haven't found such good deals anywhere else. I ordered some things from you before and was extremely pleased. I work for the school district and have just placed another order with you. I can't wait to get my new cartridges so soon. You can't beat your quickness and promptness to orders, not to mention the prices. I am going to try to sell your business to the other people I work with to have them use you instead of who we usually use. They won't be sorry! Thanks for being there!"

-J. Trent

"Wow! I'm extremely impressed with the quality of service I received from your company. Very simple, very fast and very affordable! The perfect recipe for great customer service. Thanks!"

-Jodi M.

"I think this is a great place to buy ink. I have had no problem with the ink printing. One cartridge would not work. I wrote you about it and the problem was taken care of promptly. You replaced it with another one. Thanks for the great service."

-Kaye Allen

"I just want to let you know that I think this is the

greatest place to buy ink for printers. Great prices and great quality. I have been recommending you to all my friends. Thanks so much for letting me enjoy my printer much more without having to worry about the price of ink."

-Kathy Wehunt

"Got the package today. That's the fastest (Quik-est lol!) service I have gotten from anyone that I ordered from on the net. Thanks."

-Ray P.

"You have a great product, as good as any I have found in a store and for a much better price. Your service has been great as well. I am a very satisfied customer!

Thank you,
Patricia"

"Your service is excellent! Your prices are the **LOWEST ANYWHERE!** Your shipping and processing is quick! WHY go anywhere else?

A very satisfied customer,
Christian Saracki"

"Your customer service and the quality of your merchandise is why I will remain a loyal customer as long as I have printers! Thanks!"

-James S.

"I just wanted to say how happy I am with you product and with the fast service. Got it a day early

and it worked great."

-Sherry P.

"I just wanted to say you, InkQuik is the 'Best in the Business'. I ordered Thursday and got my cartridges on Monday. You are super fast. I have no reason to shop anywhere else. Thanks again."

-Daniel S.

"I ordered ink on Saturday morning and received it today (Monday). That was so fast. I tried 1 cartridge and the ink is better than the ink that came with the printer. I did labels and it didn't smear like the other. Thank You very much."

-Linda W.

"Thanks for the GREAT SERVICE!!! You have a loyal customer!!!"

-Kevin

"Thanks for the quick service. I was about to throw my printers in the dumpster because they printed so few pages per cartridge. Staples charges \$30 for one cartridge and they only last a few weeks. Yours work fine and seem to print more pages than Epson at less than 1/2 the cost!"

-Steve Morgan

"I can't believe my order came today (Monday)
instead of Wednesday as expected. I have a project that I can complete so much earlier now.
Wow...what service...not to mention the \$\$ I saved!!

Thanx a bunch!!"

-Sandra G.

"I received my cartridges promptly, and appreciate your excellent customer service. I also ordered another cartridge from a competitor the same day as your order, and still have not received the shipment. I received yours in three days from the date of the order! Outstanding! Thank You!"

-Larry D.

"Just wanted to say thank you for the "Quik" service. If other internet companies had the InkQuik attitude, the cyber world be a much better place!"

-J. Newlon

"Got them in 2 days from ordering. I love this company and have already referred 5 friends to your web site. Thanks for the great prices and quik delivery! Keep up the good work."

-Y. Rieder

"Thank you so much for your fast and efficient service. I actually received the ink cartridges a day before expected. What a pleasant surprise."

-B. Henry

"I ordered two HP cartridges on a Friday evening and received my cartridges Monday noon in the mail. I have never ordered anything from the internet and gotten it so quickly. I'm very much impressed!"

-John S.

"I just wanted to give you my testimony after using both your Black Ink Cartridge and Color Cartridge for my Epson Stylus Color 440 Printer. Both of your cartridges have performed excellently and the savings over Epson cartridges is phenomenal. Thanks again."

-B. Hauck

"The replacement cartridge is working beautifully. I thank you for the manner in which this situation was handled.....you are good people to deal with, and I will highly recommend your company to everyone I know!"

- Martha R.

"I got the cartridge today! That was fast shipping...Wow! Thanks for the candy too. You will definitely get my business again and will be recommended to my friends."

-C. A. Geibel

"I got my order on yesterday. I am very pleased with the time frame in which the order arrived and also very satisfied with the quality of my ink. I highly recommend this site to others and will myself, continue to buy ink cartridges from INKQUIK."

-Brett H.

"Many thanks to InkQuik for saving me lots of money in the past 1 1/2 years I've been buying from them. I tell anyone that will listen to me about the savings

and the product QUALITY, and it's delivered right to your door. Can't beat that!"

-S. Geiger

"Just a quick note to let you know that I was very happy with the ease of ordering and promptness of delivery. I saved about \$30 and the ink cartridges work well. Will be buying from you again in the future."

-G. Moore

"I just wanted to comment on your company! What great service! I just ordered 2 cartridges on Wednesday and I got them today (Friday). That is excellent. I appreciate the e-mail confirmation and expected ship date, the speedy arrival, and my son enjoyed the candy inside the box. And, the cartridges work great (unlike some I received from a different company that didn't work at all)

Thanks so much! It's not often I deal with competent, good-quality, customer-oriented companies."

-P. Mortensen

"You're the best supplier I have ever had."

-M. Morell

"I recently ordered from you remanufactured cartridges for my Xerox XK35c printer. The black cartridge that came with the machine did not function at all. I inserted the [Xerox 8R7881] that I bought from you and it saved the day!!! ...Thank you for the low price, prompt delivery, quality and the candy you sent along. You can count me as a

customer and I will tell my friends about you as well.
Thank you again."

-H. Cohen MD

"Just wanted to let you know that I received the toner in fine condition, installed it and its working like new. Thank you very much for your very fast shipping, low prices and for making my internet shopping a great experience."

-B. Barmore

"Fast replacement of a cartridge that would not work was certainly welcome, along with the fact that you included a Priority Mail stamp so that I could ship it back. Replacement cartridge received and works fine! Simply excellent service!"

-Greg Topp

"I just wanted to say that I do not believe that I have ever been as happy with a company as I am with InkQuik. I received my order Monday morning.....I only placed it over the weekend. Thank you for your fast service."

-M. Reinholt

"Hi, I have to say I am thrilled! I have told everyone I know about this and since we are only a few minutes away from each other I loved that I had my package the next day! How much better can that be! Thank-you so much I look forward to being long standing customer!"

-E. Butler

"I would not buy ink anywhere else!

-L. Connor

"Your service is terrific!"

-D. Goode

"I have 2 Canon printers that use BCI-21's. I've used your ink cartridges to make over 500 T-shirt transfers and they are just as good, if not better, than OEM's! And the price is perfect!"

-J. Wills

"You're awesome!!! Thank you again!!!"

-L. Peters

"Thanks for your prompt delivery and I can't believe the prices. I will re-order again. Thanks."

-D. Robertson

"Thanks again....I Know where I will get my ink cartridges from now on and will tell my friends."

-R. Watson

"THANK YOU SO MUCH!!! I was very happy with the excellent prices you have and your unbelievable speed in delivery. You saved me 64% on the price of the 4 cartridges that I ordered, I liked the candy in the box too (nice touch!) Thanks again and I will be letting my friends know about your service."

-J. Thorne

"Your service was fabulous. My cartridges got here on Friday, just two days after I ordered them. I will definitely order again and am passing out the word!"

-S. McMorrow

"I am real pleased with my order, not to mention the quick mail delivery. Goodness, wasn't expecting it so soon! Sincerely, a happy consumer!"

-C. Campbell

"Wow, what fast service!"

-A. Minagawa

"Great service! Thanks!"

-R. Martin

"You've been very professional, timely and helpful; one of the reasons you'll keep my business."

-D. Salzano

"I was very pleased with the quick service and quality of the cartridge. I guess that's why you all call yourself InkQuik. This is the first time I ever thought I've gotten a good deal. Thanks!!"

-D. Ingram

"Got my BC20 really fast and it's working well...
thanks a gazillion."

-J. Gamble

"I received my order today, it was very well packed
and shipped fast. You have me as a steady
customer. Thanks so much."

-R. Brumbaugh

"I placed my order on 8/12 and received it today,
8/15 , and I'm totally satisfied with the product. I will
definitely recommend your excellent service and
products to all of my friends."

-R. Blake

"Thanks for the great service. Hard to find these
days."

-M. Wenslaff

"Classy customer service!"

-L. Hughes

"Got the first order that I made with InkQuik today
7/20/01, order placed on 7/17/01 in the P.M.
Excellent service, thanks for the tidbit in the box, ate
them both as I typed this thank you. A true pleasure
to do business with a company as yours. Will refer
you to my friends or anybody looking for ink refills.
Thank you."

-W. Browand

"Just wanted to let you know that I received the cartridges today. What a pleasant surprise...it actually came when you said it would! I'm delighted with your service and you will be hearing from me soon! Thanks again for your customer service excellence."

-J. Stainer

"Your products are excellent and the delivery is nothing short of sensational! Thank you, again - truly remarkable service at a great price."

-J. Betts

"I received my ink...and I am very pleased. The quality seems the same to me...and I saved at least 60% from what I usually pay at Office Max and Office Depot. Thanks."

-J. Doran

"Thank you for your quick handling of my order. It came in the mail yesterday. I will definitely let my friends now about your service. Thank you again."

-D. Musselman

"My ink came and works wonderfully. Thanks for your speedy service."

-L. Wood

"Thanks so much for a quality product! I will definitely refer you!"

-T. Davis

"Thank you for your superb service. The ink color and flow is perfect. Thanks again."

-E. Kitsch

"My order came and they work great! I'm sure we'll be ordering from you again and I'm telling all my computer buddies about you. Thanks again."

-A. Alexander

"I just want to say that today I received my ink cartridges today and they work great. They came on the exact day that you said, and I am very pleased. I will be proud to spread the word about InkQuik to friends and associates at work. Thanks again..."

-R. Misenti

"You guys have great customer service. I am telling everyone. Thanks."

-J. Moore

"Excellent customer service!"

-D. Van Duyne

"Excellent customer service. Super fast email reply. I placed an order for a set of ink cartridges on

Thursday night and received it Saturday morning. In addition I saved about \$20.00. Thank you very much."

-L. Ullger

"The cartridges arrived and they work great. I've passed on the word and you should be receiving more orders soon."

-R. Waterman

"Thank you. I received my cartridges in just a few days like you said. I put them in the printer. Cleaned the heads and ran a test. I was so pleased they worked wonderfully. I'm going to buy more and what a good price. Thank you again."

-R. Bly

"Thank you very much . I plan on getting ink from you all the time. I really like to deal with people like you. Again thank you."

- J. Welch

"Showed up today. Most satisfactory shopping experience. Thank you."

-A. Brown

"Thank you so much! You may be the only person we've ever dealt with who understands what good customer service can do for a company. We appreciate it more than you can imagine. We are looking forward to doing business with you again. We will gladly pass your name on to anyone else

who might need your services. Thanks again."

-C. Stephens

"Just wanted to let you know, my order arrived today. Thanks for the speedy work. My timing was not as good. I had to go out and buy my color cartridges on Thursday night for my son to complete his homework. Never again! Spent \$30+ on three(3) plus time to go there (30 min.) and gas (\$\$\$?). Spent less than \$55 on eight (8) with InkQuik! Time is too valuable to do that again!!! Thanks!"

-G. Parish

"I look forward to doing business with you again. I'll try to get your web site around to all my friends. Thanks for all the fast customer service!"

-M. Haire

"My order arrived Sat. I'm delighted with the product, speed of delivery, and price!! Thank you."

Future regular customer,

-A. Hudson

"Thanks for the quick reply and the EXCELLENT customer service!"

-J. Lilly

"Hi. I got my [Canon compatible cartridge] today and I wanted to let you know that it works fine, can't tell it from my Canon brand. Thanks."

-L. Wood

"I received my ink and I am pleased with my printouts. Thank you for the extra color cartridge, it was a blessing. I will recommend you to all my friends. Be blessed in your business."

-S. Jackson

"Your email of 03/13 acknowledging my order and stating that I should expect arrival on Friday 03/16 was greatly appreciated. Guess what? I received it on Thursday, a day earlier. Probably the best and fastest service I have ever seen. Also, the colors are great, cannot tell them from the originals. Glad to know that such companies still exist. Thank you."

-H. A. Rickards

Brand names are the property of their respective holders and are for descriptive purposes only.

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Anne W. Glazer, OSB #96065
glazera@lanepowell.com
Kenneth R. Davis II, OSB #97113
davisk@lanepowell.com
LANE POWELL SPEARS LUBERSKY LLP
601 SW Second Avenue, Suite 2100
Portland, Oregon 97204-3158
Telephone: (503) 778-2100
Facsimile: (503) 778-2200

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Attorneys for Plaintiff InkQuik, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

CV'04 1234 JE

**INKQUIK, INC., AN OREGON
CORPORATION,**

CV No.

Plaintiff,

**COMPLAINT (Trademark
Infringement, Unfair Competition)**

v.

DEMAND FOR JURY TRIAL

**PARAGON SOLUTION NETWORK, INC.,
A CALIFORNIA CORPORATION,**

Defendant.

Plaintiff InkQuik, Inc., ("InkQuik"), for its complaint against the defendant, alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for trademark infringement and unfair competition arising under the Lanham Act, 15 U.S.C. § 1114(1)(a), 15 U.S.C. § 1125(a); and the common law of Oregon.

PAGE 1 · COMPLAINT

IDENTIFICATION OF THE PARTIES

2. InkQuik, Inc., is a corporation organized and existing under the laws of the state of Oregon, with its principal place of business in Tigard, Oregon.

3. Upon information and belief, defendant Paragon Solution Network, Inc., ("Paragon") is a corporation organized and existing under the laws of the state of California, with its principal place of business in Glendale, California.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over the action pursuant to 15 U.S.C. § 1121(a) (Lanham Act), 28 U.S.C. § 1338 (trademarks and unfair competition), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1332 (diversity jurisdiction), and 28 U.S.C. § 1367 (supplemental jurisdiction).

5. Paragon markets its services via interactive web sites accessible to Oregon residents.

6. On information and belief, Paragon has made numerous sales to Oregon residents under the mark QUICKINKS.

7. Paragon has committed tortious acts aimed at causing harm to InkQuik in Oregon.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims occurred here, and because Paragon is a corporation subject to personal jurisdiction here.

GENERAL FACTS REGARDING THE CLAIMS

9. InkQuik, Inc., is the owner of the U.S. registered service mark INKQUIK, Registration No. 2,734,105, issued July 8, 2003.

10. On or about October 1, 2000, InkQuik registered the Internet domain name "inkquik.com" with registrar Register.com.

11. In October 2000, InkQuik launched an interactive commercial web site located at <http://www.inkquik.com>, offering printer supplies for sale to customers throughout the United States under the INKQUIK service mark.

12. InkQuik has used the INKQUIK mark continuously and extensively since that time in connection with online retail store services featuring printer supplies.

13. By virtue of its continuous, exclusive, and extensive use by InkQuik, the INKQUIK mark has acquired considerable goodwill and become widely recognized by members of the public who, upon seeing the mark, identify the mark with InkQuik.

14. Upon information and belief, on or about May 30, 2001, Paragon registered the Internet domain name "quickinks.com" with domain name registrar Tucows, Inc.

15. Upon information and belief, on or about September 24, 2001, Paragon launched an interactive commercial web site located at <http://www.quickinks.com>, offering printer supplies for sale to customers throughout the United States under the QUICKINKS service mark and name.

16. Paragon currently operates an interactive commercial web site located at <http://www.quickinks.com>, offering and selling printer supplies to customers throughout the United States under the QUICKINKS service mark and name.

17. Upon information and belief, Paragon knowingly, intentionally and willfully adopted a domain name and service mark confusingly similar to that of InkQuik.

18. InkQuik has demanded that Paragon cease and desist from using the mark QUICKINKS and the domain name "quickinks.com" in commerce in connection with the services.

19. Paragon has refused to comply with InkQuik's demand.

20. Paragon's conduct complained of herein has caused and will cause irreparable harm to InkQuik, unless this Court preliminarily and permanently enjoins Paragon from further violations of InkQuik's rights.

21. InkQuik has no adequate remedy at law.

PAGE 3 - COMPLAINT

COUNT I

Trademark Infringement

22. InkQuik repeats and realleges each of the above paragraphs as if set forth fully herein.

23. Paragon's use of QUICKINKS and the "quickinks.com" domain name constitutes use in commerce of a reproduction, counterfeit, copy, or colorable imitation of InkQuik's registered mark in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive, all in violation of 15 U.S.C. § 1114(1)(a).

24. InkQuik is damaged and is likely to be damaged by Paragon's use of such words, terms, names or false designations.

COUNT II

False Designation of Origin and Unfair Competition

25. InkQuik repeats and realleges each of the above paragraphs as if set forth fully herein.

26. Paragon's use of QUICKINKS and the "quickinks.com" domain name constitutes use in commerce, in connection with Paragon's services, of words, terms, names, or false designations of origin, which are likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Paragon with InkQuik, or as to the origin, sponsorship, or approval of Paragon's services or commercial activities by InkQuik, all in violation of 15 U.S.C. § 1125(a).

27. InkQuik is damaged and is likely to be damaged by Paragon's use of such words, terms, names, or false designations.

COUNT III

Common Law Trademark Infringement and Unfair Competition

28. InkQuik repeats and realleges each of the above paragraphs as if set forth fully herein.

29. Paragon's use of QUICKINKS and the "quickinks.com" domain name constitutes use in commerce, in connection with Paragon's services, of words, terms, names, or false designations of origin, which are likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Paragon with InkQuik, or as to the origin, sponsorship, or approval of Paragon's services or commercial activities by InkQuik, and InkQuik is likely to be damaged by Paragon's use of such words, terms, names, or false designations, all in violation of the common law of trademark infringement and unfair competition.

PRAYER FOR RELIEF

WHEREFORE, InkQuik respectfully prays that the Court enter judgment, which shall provide:

A. That Paragon, its officers, directors, agents, attorneys, servants, employees, successors, and assigns, and all other persons in active concert or participation with them, and all those acting under the authority of or in privity with Paragon, shall be preliminarily and permanently enjoined from erecting, maintaining, or using in any other manner whatsoever QUICKINKS, QUICKINKS.COM, or any other formative thereof or designation confusingly similar to INKQUIK, alone or in combination with other matter, as a service mark or name to advertise, promote, or identify the source of its services or goods;

B. That Paragon shall remove, and shall not display or distribute, any web sites, advertisements, promotions, displays, price lists, catalogs, publications, articles, and any other materials in its possession or in control of any of its agents, which bear or represent in any way QUICKINKS, QUICKINKS.COM, or any other formative thereof or designation confusingly similar to INKQUIK, alone or in combination with other matter;

- C. That Paragon shall transfer the domain name "quickinks.com" to InkQuik;
- D. That Paragon shall pay InkQuik compensatory damages in a sum equal to three (3) times the amount of InkQuik's actual damages pursuant to 15 U.S.C. § 1117;
- E. That Paragon shall account for and pay over to InkQuik all earnings, profits, receipts, and advantages derived by Paragon through the marketing of services in association with the unlawful acts alleged herein;
- F. That Paragon shall compensate InkQuik for any advertising or other expenses necessary to dispel, cure, or counteract any public confusion caused by Paragon's unlawful acts;
- G. That InkQuik shall be awarded its costs, expenses, and attorneys' fees for bringing and prosecuting this action, pursuant to 15 U.S.C. § 1117 and applicable state law;
- H. That InkQuik shall be awarded its costs and expenses incurred in prosecuting this action; and
- I. That InkQuik shall be awarded such other and further relief as this Court may deem just and proper.

JURY DEMAND

InkQuik demands a jury trial on all issues properly triable before a jury.

DATED: September 1, 2004

LANE POWELL SPEARS LUBERSKY LLP

By Anne W. Glazer
Anne W. Glazer, OSB No. 96065
Kenneth R. Davis II, OSB No. 97113
(503) 778-2100
Attorneys for Plaintiff InkQuik, Inc.

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July 29, 2004

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VIA E-MAIL AND U.S. MAIL

Joel D. Voelzke, Esq.
Fulwider Patton Lee & Utecht, LLP
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045

Re: QuickInks.com
Our File No. 706755.2
PSN - 69162

Dear Mr. Voelzke:

Thank you for speaking with me the other day. We thought it best to clearly set forth the claims of Inkquik, Inc. ("Inkquik") in order to assist you in advising your client, Paragon Solution Network, Inc., dba Quickinks.com ("Quickinks"). Quickinks' use of the service mark QUICKINKS (or QUICKINKS.COM), and the domain name Quickinks.com in connection with its printer supplies business, infringes Inkquik's valuable rights in its service mark INKQUIK.

Inkquik owns a U.S. service mark registration for the mark INKQUIK, a copy of which is enclosed for your reference. The registration covers "online retail store services featuring printer and copier toner, ink jet printer ink, ink cartridge refill supplies, ink jet cartridges, toner drums and cartridges and remanufactured ink jet cartridges and toner drums for printers, copiers, fax machines and multi-function office machines."

Inkquik has been using the INKQUIK mark in connection with the above services continuously since January 2000. The mark is featured prominently on the website at <http://www.inkquik.com>. Inkquik has expended considerable time, effort and money in the advertisement and promotion of its services under the INQUIK mark. The mark embodies substantial and valuable goodwill belonging exclusively to Inkquik.

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Seattle, WA
Vancouver, WA
London, England

Joel D. Voelzke, Esq.
July 29, 2004
Page 2

Quickinks' use of QUICKINKS in connection with printer supply sales is likely to cause consumer confusion, mistake and deception as to the source or sponsorship of Quickinks' services. The marks are practically identical, because Quickinks' mark is merely the phonetic equivalent of Inkquik's mark with the syllables reversed. The cases are numerous finding that a transposition of elements does not create a different commercial impression and therefore confusion is likely to result. See, e.g., *Trademark Manual of Examining Procedure 1207(b)(vii)*.

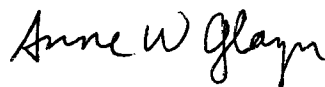
Customers and potential customers viewing the Quickinks website are likely to confuse its services with those of Inkquik. Purchasers often remember trademarks imprecisely, and are quite likely to reverse the two syllables. In fact, Inkquik believes confusion has already occurred, because customers have contacted Inkquik about orders that could not be traced to Inkquik.

In sum, Quickinks' use of QUICKINKS and the Quickinks.com domain name is likely to cause irreparable harm and damage to Inkquik. Quickinks' conduct therefore infringes Inkquik's valuable trademark rights, and constitutes unfair competition and dilution in violation of 15 USC §§ 1114, 1125(a), state statutes and the common law.

For the foregoing reasons, Inkquik demands that Quickinks cease all use of QUICKINKS on its website, in its URL, and in other advertising and promotion. If Quickinks responds cooperatively, however, Inkquik will be willing to allow a reasonable time for transition to a new name, domain name and logo. We look forward to reaching an amicable resolution of this matter.

Sincerely,

LANE POWELL SPEARS LUBERSKY LLP



Anne W. Glazer

Enclosure

cc: Inkquik, Inc.
706755.0002/474490.1

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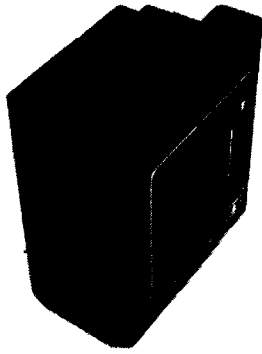


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This site is best viewed at 1024x768 resolution, in 32 bit colour.



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